

UNITED STATES DISTRICT COURT SOUTHERN
DISTRICT OF NEW YORK

TANGLE INC.,

Plaintiff,

v.

eiaagi

Defendant

Case No. 22-cv-02350

Judge James L. Cott

Motion To Dismiss Plaintiff's Complaint

The defendant eiaagi (Account: A1EVS2P3BYLYUG) is an Amazon store, which was created by a Chinese individual 刘翠华 (Liu Cui Hua). Because the name of one product in defendant's store contains the term "Tangle", defendant was sued by the plaintiff for infringing the plaintiff's trademark, and Plaintiff unilaterally frozen all the funds in the defendant's account. However, Defendant believes it didn't use the term "Tangle" to refer to plaintiff, but just described product itself, and defendant didn't purposely sell alleged products to New York. Defendant hereby represents itself to respectfully request the court to dismiss plaintiff's complaint.

Basis of Plea**1. Plaintiff's case against defendant is without merit and should be dismissed for failure to state a claim.**

The below is alleged product in defendant's store which is presented by plaintiff as evidence, as we can see, alleged product is a kind of fidget toy. The alleged product's name is "[eiaagi Fidget Toys, Stress Balls Fidget Toys Vent Ball Decompression Toy Slow Rebound Squeeze Music Tangle Fidget Toys Cheap Sensory Fidget Toys for Adults Teens Kids](#)"

It is clear that defendant used the term "Tangle" to describe the toy's Functions and features, suggesting that it can help office employees relieve stress. Defendant never used the term "Tangle" to reference plaintiff. Defendant has showed to consumers that the product's brand is "eiaagi ". When initiating this lawsuit, Plaintiff never diligently checked whether the defendant was really infringing. Plaintiff failed to state how the defendant infringed its trademark in combination with the actual situation of the defendant, and how to make consumers misidentify the source of the product. Plaintiff sued all sellers who used the word "Tangle" on Amazon platform, and made its accusation only in templated language without considering the actual situation.

1 result for "eiaagi Fidget Toys, Stress Balls Fidget Toys Vent Ball Decompression Toy Slow Rebound Squeeze Music Tangle Fidget Toys Cheap Sensory Fidget Toys for Adults Teens Kids (Purple)"

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2. Plaintiff failed to establish that the Court in New York has personal jurisdiction over the defendant.

Defendant lives in China, and never travelled to United States. Neither plaintiff nor defendant based in New York. Defendant has no regular and established place of business in New York. Defendant does not maintain any offices, employees, or telephone listings in New York. Defendant has no manufacturing facility or distribution facility in New York. Defendant does not have any employees who visit New York for business purposes. Defendant's actions did not cause any harm to the plaintiff or the residents of New York. Plaintiff failed to present evidence sufficient to demonstrate the court in New York has jurisdiction over the defendant. Therefore, Plaintiff's complaint should be dismissed for lack of personal jurisdiction.

Conclusion, Defendant respectfully requests the court to dismiss plaintiff's complaint.

Dated: May 24,2022

Respectfully submitted

/s/ 刘翠华(Liu Cui Hua)

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Pro Se litigant